



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS  
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## Facsimile Cover Sheet

To: Adrienne O'Donnell

Company

Phone:

Fax: 805 924 8698

From: Montia Givens

Company: LAW OFFICE 101, 4TH FLOOR

Phone: (703) 308-9101 EXT. 124

Fax: (703) 308-7182

Date: 8/10/98

Pages including this

cover page: 3

Comment:

RE: Serial No. 75-442195

Ms. O'Donnell: per your request, the following form may be used to claim acquired distinctiveness of a mark which is geographically descriptive but which has been used in commerce for at least 5 years to allow registration on the Principal Register. Because the word CRISPS is not only descriptive but is generic for crackers, you must disclaim the exclusive ownership of this term.

Note that if you wish your fax to be treated as an official response to the Office Action I mailed you, be sure to include the information required on the first page of the Office Action (please see the four items listed).

Claim under Section 2(f) of the Principal Register

The application indicates use of the mark for a significant time. Therefore, the applicant may amend to seek registration under Trademark Act Section 2(f), 15 U.S.C. Section 1052(f), based on acquired distinctiveness. If the applicant chooses to do so by using the statutory suggestion of five years of use as proof of distinctiveness, the applicant should submit a claim of distinctiveness that reads as follows, if accurate.

The mark has become distinctive of the goods through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.

The applicant must provide this statement supported by an affidavit or a declaration under 37 C.F.R. Section 2.20. 37 C.F.R. Section 2.41(b); TMEP section 1212.05(d).

The following is a properly worded declaration under 37 C.F.R. Section 2.20. At the end of the response, the applicant should insert the declaration signed by an officer.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

---

(Signature)

---

(Print or Type Name and Position)

Disclaimer of Wording

The applicant must insert a disclaimer of CRISPS in the application because the word is the generic name of the goods. Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1213 and 1213.09(a)(i).

A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use CRISPS apart from the mark as shown.






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# CHEEZ-IT CRISPS

<b>Word Mark</b>	CHEEZ-IT CRISPS
<b>Goods and Services</b>	IC 030, US 046, G & S: crackers. FIRST USE: 20060130. FIRST USE IN COMMERCE: 20060130
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78698561
<b>Filing Date</b>	August 23, 2005
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	June 6, 2006
<b>Registration Number</b>	3277216
<b>Registration Date</b>	August 7, 2007
<b>Owner</b>	(REGISTRANT) Kellogg North America Company CORPORATION DELAWARE One Kellogg Square PO BOX 3599 Battle Creek MICHIGAN 49016
<b>Prior Registrations</b>	0151785;2274207;2416368;AND OTHERS
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CRISPS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

Live/Dead Indicator LIVE

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**To:** Kellogg North America Company ([lalitha.mani@kellogg.com](mailto:lalitha.mani@kellogg.com))  
**Subject:** TRADEMARK APPLICATION NO. 78698561 - CHEEZ-IT CRISPS - N/A  
**Sent:** 3/15/2006 9:14:09 PM  
**Sent As:** ECOM107@USPTO.GOV  
**Attachments:**

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/698561

**APPLICANT:** Kellogg North America Company

**CORRESPONDENT ADDRESS:**

LALITHA MANI  
KELLOGG COMPANY  
ONE KELLOGG SQUARE  
BATTLE CREEK, MI 49016

**\*78698561\***

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** CHEEZ-IT CRISPS

**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A

**CORRESPONDENT EMAIL ADDRESS:**

[lalitha.mani@kellogg.com](mailto:lalitha.mani@kellogg.com)

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/698561



The assigned examining attorney has reviewed the referenced application and determined the following:

#### Search of Office Records

The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

#### Identification of Goods

The identification of goods is unacceptable as indefinite. TMEP §1402.01. The applicant may adopt the following identification, if accurate:

Class 30 – Crackers; snack mixes consisting primarily of *[specify, e.g., crackers, pretzels, candied nuts and/or popcorn]*; snacks, namely, *[specify each item by its common commercial name, e.g., puffed corn]*.

For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>.

Please note that, while the identification of goods may be amended to clarify or limit the goods, adding to the goods or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

#### Multiple Class Application

If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark in commerce under Trademark Act Section 1(b):

- (1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and
- (2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid (current fee information should be confirmed at <http://www.uspto.gov>). 37 C.F.R. §2.86(a)(2); TMEP §§810 and 1403.01.

#### Disclaimer of Descriptive Wording

Applicant must disclaim the descriptive wording “CRISPS” apart from the mark as shown because it merely describes a characteristic of the goods. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).



The following is the accepted standard format for a disclaimer:

No claim is made to the exclusive right to use "CRISPS" apart from the mark as shown.

#### Response Guidelines

Please note that there is no required format or form for responding to this Office action. However, applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number.

When responding to this Office action, applicant must make sure to respond in writing to each refusal and requirement raised. If there is a refusal to register the proposed mark, then applicant may wish to argue against the refusal, i.e., explain why it should be withdrawn and why the mark should register. If there are other requirements, then applicant should simply set forth in writing the required changes or statements and request that the Office enter them into the application record. Applicant must also sign and date its response.

Whether applicant chooses to respond via regular mail, facsimile or electronic mail (TEAS), applicant should submit its response using only *one* of these means of communication. Duplicate responses will delay the prosecution of the application.

#### Informational

Applicants may now file requests to change the correspondence address electronically on up to 20 applications at one time. The Office encourages applicants to use this time-saving form, available online at <http://www.uspto.gov/teas/index.html>.

The following legal authorities govern the processing of trademark and service mark applications by the Office: The Trademark Act, 15 U.S.C. §§1051 *et seq.*, the Trademark Rules of Practice, 37 C.F.R. Part 2, and the Office's *Trademark Manual of Examining Procedure* (TMEP) (4th ed., 2005), available on the United States Patent and Trademark Office web site at <http://www.uspto.gov/main/trademarks.htm>.

/Matthew J. Pappas/  
Law Office 107  
HELP LINE: 571/272-9250  
matthew.pappas@uspto.gov (informal)  
571/272-9206 phone  
571/273-9107 fax

#### **HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application

System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**

- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office,** not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**






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# CULINARY CRISPS

<b>Word Mark</b>	CULINARY CRISPS
<b>Goods and Services</b>	IC 030. US 046. G & S: Bakery products, crackers, flatbreads and biscuits. FIRST USE: 20090300. FIRST USE IN COMMERCE: 20090300
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77621251
<b>Filing Date</b>	November 25, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 14, 2009
<b>Registration Number</b>	3764761
<b>Registration Date</b>	March 23, 2010
<b>Owner</b>	(REGISTRANT) Kracker Enterprises LLC LIMITED LIABILITY COMPANY TEXAS 10490 Miller Road Dallas TEXAS 75238
<b>Attorney of Record</b>	Christopher L. Graff
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CRISPS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/621251

**MARK:** CULINARY CRISPS

**\*77621251\***

**CORRESPONDENT ADDRESS:**

CHRISTOPHER L. GRAFF  
TROP, PRUNER & HU, PC  
1616 S VOSS RD STE 750  
HOUSTON, TX 77057-2620

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Kracker Enterprises LLC

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:**

ECK.0007US

**CORRESPONDENT E-MAIL ADDRESS:**

tphpto@tphm.com

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE:** 3/3/2009

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

**NO LIKELIHOOD OF CONFUSION**

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

**DISCLAIMER REQUIRED**

Applicant must disclaim the descriptive wording "CRISPS" apart from the mark as shown because it merely describes a crunchy food. Please see the attached copies of registrations as evidence of the



descriptiveness of the term. See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The Office can require an applicant to disclaim an unregistrable part of a mark consisting of particular wording, symbols, numbers, design elements or combinations thereof. 15 U.S.C. §1056(a). Under Trademark Act Section 2(e), the Office can refuse registration of an entire mark if the entire mark is merely descriptive, deceptively misdescriptive, or primarily geographically descriptive of the goods. 15 U.S.C. §1052(e). Thus, the Office may require an applicant to disclaim a portion of a mark that, when used in connection with the goods or services, is merely descriptive, deceptively misdescriptive, primarily geographically descriptive, or otherwise unregistrable (e.g., generic). See TMEP §§1213, 1213.03.

A “disclaimer” is a statement that applicant does not claim exclusive rights to an unregistrable component of a mark. TMEP §1213. A disclaimer does not affect the appearance of the applied-for mark. See TMEP §1213.10.

A disclaimer does not physically remove the disclaimed matter from the mark, but rather is a written statement that applicant does not claim exclusive rights to the disclaimed wording and/or design separate and apart from the mark as shown in the drawing. TMEP §§1213, 1213.10

The following is the accepted standard format for a disclaimer:

No claim is made to the exclusive right to use “CRISPS” apart from the mark as shown.

TMEP §1213.08(a)(i).

Failure to comply with a disclaimer requirement can result in a refusal to register the entire mark. TMEP §1213.01(b).

/Verna Beth Ririe/  
Trademark Attorney  
Law Office 104  
(571) 272-9310  
(571) 273-9104 (office fax)

**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451,






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<b>Word Mark</b>	ENTINA CRISPS CARAWAY RYE CRISPS
<b>Goods and Services</b>	IC 030, US 046, G & S: Organic food package combinations consisting primarily of bread, crackers and/or cookies; Organic grain-based food beverages; Organic grain-based snack foods; Organic wheat flour; Organic wheat-based snack foods. FIRST USE: 20110101, FIRST USE IN COMMERCE: 20110101
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	01.07.01 - Globes with outlines of continents 01.15.25 - Coal; Dust; Light rays; Liquids, spilling; Pouring liquids; Sand; Spilling liquids 05.05.25 - Daffodils; Iris (flower); Other flowers 24.09.07 - Advertising, banners; Banners 26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric 26.03.21 - Ovals that are completely or partially shaded
<b>Serial Number</b>	85047218
<b>Filing Date</b>	May 25, 2010
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 16, 2010
<b>Owner</b>	(APPLICANT) Pelegrimas, Dovydas INDIVIDUAL UNITED STATES 14 Avenue B Port Washington NEW YORK 11050
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "NATURAL & ORGANIC CRISPS" APART FROM THE MARK AS SHOWN

**Description of Mark** The color(s) brown, yellow, light blue, dark blue, white and dark red is/are claimed as a feature of the mark. The mark consists of this is the logo for "Entina Organic Caraway Rye Crisps". The flavor signature is brown lettering at the top with a brown strip at the bottom. There is a sun with two fields in the middle of the image. The sun image is yellow with shades of red, while the two fields are dark blue and baby blue, respectively.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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**To:** Dovydas Pelegrimas ([dovydas@gmail.com](mailto:dovydas@gmail.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85047218 - ENTINA,  
NATURAL & ORGANIC CRISPS, - N/A  
**Sent:** 9/13/2010 12:36:08 PM  
**Sent As:** ECOM106@USPTO.GOV  
**Attachments:**

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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**APPLICATION SERIAL NO.** 85047218

**MARK:** ENTINA, NATURAL & ORGANIC  
CRISPS,

**\*85047218\***

**CORRESPONDENT ADDRESS:**  
DOVYDAS PELEGRIMAS  
14 AVENUE B  
PORT WASHINGTON, NY 11050-  
2417

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Dovydas Pelegrimas

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:** N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
[dovydas@gmail.com](mailto:dovydas@gmail.com)

**EXAMINER'S AMENDMENT**

**ISSUE/MAILING DATE:** 9/13/2010

**DATABASE SEARCH:** The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

**APPLICATION HAS BEEN AMENDED:** In accordance with the authorization granted by Dovydas Pelegrimas on September 13, 2010, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. Otherwise, no response is necessary. TMEP §707. Any amendments to the identification of goods and/or services may clarify or limit the goods and/or services, but may not add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); *see* TMEP §1402.06 *et seq.*

### **Identification of Goods in Class 30**

The identification of goods in International Class 30 is amended to read as follows: "Organic food package combinations consisting primarily of bread, crackers and/or cookies; Organic grain-based food beverages; Organic grain-based snack foods; Organic wheat flour; Organic wheat-based snack foods." See TMEP §§1402.01, 1402.01(e).

### **International Class 16**

International Class 16 is deleted from the application

### **Disclaimer**

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "NATURAL & ORGANIC CRISPS" apart from the mark as shown.

See 15 U.S.C. §1056(a); TMEP §§1213, 1213.08(a)(i).

### **Description of the Mark and Color Location Statement**

The following statements describing color in the mark are added to the record:

The colors green, red, purple, yellow, blue and white are claimed as a feature of the mark.

The mark consists of the following: a green double lined oval around the wording "ENTINA" in the color green placed next to a flower with red, purple, green, yellow, and blue petals and a green stem. The wording "NATURAL & ORGANIC CRISPS" appears in the color white and is placed inside a green banner above a blue globe with green continents and yellow rays extending from the globe. The wording "ENTINAORGANIC.COM" appears in the color white in the bottom portion of the oval.

37 C.F.R. §2.52(b)(1); TMEP §807.07(a)(i), (a)(ii).

/Leslie L. Richards/  
Trademark Examining Attorney  
Law Office 106  
U.S. Patent and Trademark Office  
571-272-1256 phone  
571-273-9106 fax

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months

using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.







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## GARDEN CRISP

Word Mark	GARDEN CRISP
Goods and Services	(ABANDONED) IC 030. US 046. G & S: Crackers
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77818241
Filing Date	September 2, 2009
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	May 4, 2010
Owner	(APPLICANT) Lance Mfg. LLC LIMITED LIABILITY COMPANY NORTH CAROLINA Attn: Legal Dept. 13024 Ballantyne Corp. Pl., Suite 900 Charlotte NORTH CAROLINA 28277
Attorney of Record	Thomas E. Graham
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CRISP" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	January 31, 2011

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FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

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**To:** Lance Mfg. LLC ([tgraham@lance.com](mailto:tgraham@lance.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 77818241 - GARDEN CRISP - N/A  
**Sent:** 11/12/2009 8:00:44 PM  
**Sent As:** ECOM110@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/818241

**MARK:** GARDEN CRISP

**\*77818241\***

**CORRESPONDENT ADDRESS:**

THOMAS E. GRAHAM  
13024 BALLANTYNE CORP PL STE 900  
CHARLOTTE, NC 28277-1498

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Lance Mfg. LLC

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

[tgraham@lance.com](mailto:tgraham@lance.com)

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE:** 11/12/2009

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must submit certain documents electronically. In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and maintain a valid e-mail address. 37 C.F.R. §§2.23(a), (b); TMEP §§819, 819.02(a), (b). Failure to do so will incur an additional fee of \$50 per class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04.



Therefore, applicant must submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>: (1) responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of power of attorney; (6) appointments and revocations of domestic representative; (7) amendments to allege use; (8) statements of use; (9) requests for extension of time to file a statement of use; and (10) requests to delete a Trademark Act Section 1(b) basis. If applicant files any of these documents on paper instead of via TEAS, then applicant must also submit the \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv), 2.23(a)(1); TMEP §§819.02(b), 819.04. Telephone responses that result in the issuance of an examiner's amendment will not incur this additional fee.

The assigned examining attorney has reviewed the referenced application and determined the following:

#### **DISCLAIMER**

Applicant must insert a disclaimer of CRISP in the application because the wording describes aspects of applicant's goods. CRISP is defined as: **brittle** <a crisp cracker> See 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The following is the accepted standard format for a disclaimer:

**No claim is made to the exclusive right to use "CRISP" apart from the mark as shown.**

TMEP §1213.08(a)(i).

#### **NO SIMILAR MARKS FOUND**

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 704.02.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

***/Dezmona J. Mizelle-Howard/***

Dezmona J. Mizelle-Howard  
United States Patent and Trademark Office  
Law Office 110  
571.272.9368

**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received



notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.




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**Record 9 out of 13**

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# Kameda Crisps

<b>Word Mark</b>	KAMEDA CRISPS
<b>Goods and Services</b>	IC 030. US 046. G & S: Confectionery, namely, Rice crackers, Pellet-shaped rice crackers, Rice-based snack foods, Cereal-based snack foods. FIRST USE: 20081000. FIRST USE IN COMMERCE: 20081000
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77591972
<b>Filing Date</b>	October 14, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	September 15, 2009
<b>Registration Number</b>	3815188
<b>Registration Date</b>	July 6, 2010
<b>Owner</b>	(REGISTRANT) Kameda Seika Co., Ltd. CORPORATION JAPAN Niigata-shi 3-1-1 Kameda-kogyodanchi, Konan-ku, Niigata JAPAN
<b>Attorney of Record</b>	Bruce S. Londa
<b>Prior Registrations</b>	3556026;3649483



**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CRISPS" APART FROM THE MARK AS SHOWN

**Type of Mark** TRADEMARK

**Register** PRINCIPAL-2(F)

**Live/Dead Indicator** LIVE

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**To:** Kameda Seika Co., Ltd. ([bslonda@nmmlaw.com](mailto:bslonda@nmmlaw.com))  
**Subject:** TRADEMARK APPLICATION NO. 77591972 - KAMEDA CRISPS - 101188-103  
**Sent:** 1/22/09 11:33:13 AM  
**Sent As:** ECOM117@USPTO.GOV  
**Attachments:** Attachment - 1  
Attachment - 2  
Attachment - 3  
Attachment - 4  
Attachment - 5  
Attachment - 6  
Attachment - 7  
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Attachment - 22

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 77/591972

**MARK:** KAMEDA CRISPS

**\*77591972\***

**CORRESPONDENT ADDRESS:**

BRUCE S. LONDA  
NORRIS MCLAUGHLIN & MARCUS PA  
875 3RD AVE FL 18  
NEW YORK, NY 10022-6225

**RESPOND TO THIS ACTION:**

<http://www.uspto.gov/teas/eTEASpageD.htm>

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Kameda Seika Co., Ltd.

**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

101188-103

**CORRESPONDENT E-MAIL ADDRESS:**

bslonda@nmmlaw.com

**OFFICE ACTION**

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

**ISSUE/MAILING DATE:** 1/22/2009

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

**Primarily Merely A Surname:**

Registration is refused because the applied-for mark is primarily merely a surname. Trademark Act Section 2(e)(4), 15 U.S.C. §1052(e)(4); *see* TMEP §1211. The primary significance of the mark to the purchasing public determines whether a term is primarily merely a surname. *In re Etablissements Darty et Fils*, 759 F.2d 15, 17-18, 225 USPQ 652, 653 (Fed. Cir. 1985); *In re Kahan & Weisz Jewelry Mfg. Corp.*, 508 F.2d 831, 832, 184 USPQ 421, 422 (C.C.P.A. 1975); *see* TMEP §§1211, 1211.01.

Please see the attached evidence from an electronic telephone directory establishing the surname significance of the surname KAMEDA. This evidence shows the applied-for mark appearing 163 times as a surname in a nationwide telephone directory of names.

Combining a surname with the generic name for the goods and/or services does not overcome a mark's surname significance. *See In re Hamilton Pharms. Ltd.*, 27 USPQ2d 1939 (TTAB 1993) (holding HAMILTON PHARMACEUTICALS primarily merely a surname for pharmaceutical products); *In re Cazes*, 21 USPQ2d 1796 (TTAB 1991) (holding BRASSERIE LIPP primarily merely a surname when used in connection with restaurant services); *In re Woolley's Petite Suites*, 18 USPQ2d 1810 (TTAB 1991) (holding WOOLLEY'S PETITE SUITES primarily merely a surname for hotel and motel services); TMEP §1211.01(b)(vi).



The addition of the term “crisps”, which appears to be the generic name for a type of sweet snack or dessert, similar to the products of the applicant, does not alter the primary surname significance of the term ( see enclosed definitions and generic use in the industry of the term “crisps”, identifying sweet snack food).

There is no rule as to the kind or amount of evidence necessary to make out a prima facie showing that a term is primarily merely a surname. This question must be resolved on a case-by-case basis. TMEP §1211.02(a); see, e.g., *In re Monotype Corp. PLC*, 14 USPQ2d 1070 (TTAB 1989); *In re Pohang Iron & Steel Co.*, 230 USPQ 79 (TTAB 1986). The entire record is examined to determine the surname significance of a term. The following are examples of evidence that is generally considered to be relevant: telephone directory listings, excerpted articles from computerized research databases, evidence in the record that the term is a surname, the manner of use on specimens, dictionary definitions of the term and evidence from dictionaries showing no definition of the term. TMEP §1211.02(a).

Although “KAMEDA” appears to be a relatively rare surname, a rare surname may be unregistrable under Trademark Act Section 2(e)(4) if its primary significance to purchasers is that of a surname. E.g., *In re Etablissements Darty et Fils*, 759 F.2d 15, 225 USPQ 652 (Fed. Cir. 1985); *In re Giger*, 78 USPQ2d 1405 (TTAB 2006); see TMEP §1211.01(a)(v). There is no minimum number of telephone directory listings needed to prove that a mark is primarily merely a surname. See TMEP §1211.02(b)(i); see, e.g., *In re Petrin Corp.*, 231 USPQ 902 (TTAB 1986).

For these reasons, registration is refused on the Principal Register on grounds that the term is primarily merely a surname, under the provisions of Trademark Act section 2(e)(4).

A mark deemed primarily merely a surname may be registered on the Principal Register under Trademark Act Section 2(f) by satisfying one of the following:

- (1) Submitting a claim of ownership of one or more prior registrations on the Principal Register for a mark that is the same as the mark in the application and for the same or related goods and/or services. 37 C.F.R. §2.41(b); TMEP §1212.04. The following wording is suggested: **“The mark has become distinctive under Section 2(f) of the goods or services as evidenced by ownership of U.S. Registration No(s). 3,556,026 on the Principal Register for the same mark for related goods or services.”** TMEP §1212.04(e).;
- (2) Submitting the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §§2.20, 2.33: “The mark has become distinctive of the goods and/or services through applicant’s substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.” 37 C.F.R. §2.41(b); TMEP §1212.05(d).; or
- (3) Submitting actual evidence of acquired distinctiveness. 37 C.F.R. §2.41(a); TMEP §1212.06. Such evidence may include the following: examples of advertising and promotional materials that specifically promote the applied-for mark as a trademark or service mark in the United States; dollar figures for advertising devoted to such promotion; dealer and consumer statements of recognition of the applied-for mark as a trademark or service mark; and any other evidence that establishes recognition of the applied-for mark as



a source-identifier for the goods and/or services. *See In re Ideal Indus., Inc.*, 508 F.2d 1336, 184 USPQ 487 (C.C.P.A. 1975); *In re Instant Transactions Corp. of Am.*, 201 USPQ 957 (TTAB 1979); TMEP §§1212.06 *et seq.*

Trademark Act Section 2(f), 15 U.S.C. §1052(f); *see* 37 C.F.R. §2.41; TMEP §§1211, 1212.

If applicant cannot satisfy one of the above, applicant can amend the application to seek registration on the Supplemental Register. Trademark Act Section 23, 15 U.S.C. §1091; *see* 37 C.F.R. §§2.47, 2.75(a).

Applicant must respond to the requirement(s) set forth below.

**Disclaimer Requirement:**

Applicant must disclaim the descriptive wording “CRISPS” apart from the mark as shown because it merely describes the nature of the snack foods, by use of the generic name ( see enclosed material and definitions). *See* 15 U.S.C. §1056(a); TMEP §§1213, 1213.03(a).

The computerized printing format for the Office’s *Trademark Official Gazette* requires a standardized format for a disclaimer. TMEP §1213.08(a)(i). The following is the standard format used by the Office:

No claim is made to the exclusive right to use “CRISPS” apart from the mark as shown.

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm’r Pats. 1983).

**Claim of Ownership of Prior Registration:**

If applicant is the owner of U.S. Registration No. 3,556,026, then applicant must submit a claim of ownership. 37 C.F.R. §2.36; TMEP §812. The following standard format is suggested:

Applicant is the owner of U.S. Registration No. 3,556,026.

**Search Results:**

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Henry S. Zak  
/Henry S. Zak/  
Examining Attorney  
Law Office 117  
(571) 272-9354

**RESPOND TO THIS ACTION:** Applicant should file a response to this Office action online using the

form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.







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## Typed Drawing

Word Mark	MEADOW WHEAT CRISP
Goods and Services	(EXPIRED) IC 031, US 046. G & S: CRACKERS. FIRST USE: 19720713. FIRST USE IN COMMERCE: 19720713
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	72433946
Filing Date	August 28, 1972
Current Basis	1A
Original Filing Basis	1A
Registration Number	0969726
Registration Date	October 2, 1973
Owner	(REGISTRANT) NABISCO, INC. CORPORATION NEW JERSEY 425 PARK AVE. NEW YORK NEW YORK 10022
Disclaimer	APPLICANT AGREES TO DISCLAIM THE EXCLUSIVE USE OF THE WORDS "WHEAT" AND "CRISP" APART FROM THE MARK AS SHOWN.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD

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# PRO CRISPS

Word Mark	PRO CRISPS
Goods and Services	(ABANDONED) IC 029. US 046. G & S: Processed eggs; Protein based, nutrient-dense snack foods
	(ABANDONED) IC 030. US 046. G & S: Cookies and crackers
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85366056
Filing Date	July 7, 2011
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) John Miller INDIVIDUAL UNITED STATES 23644 Maple Springs Dr, Diamond Bar CALIFORNIA 91765
Attorney of Record	Jeffrey Jue
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	April 27, 2012

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**To:** John Miller (jjue@catalystipgroup.com)  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85366056 - PRO CRISPS - JCM03  
**Sent:** 10/26/2011 9:14:57 AM  
**Sent As:** ECOM117@USPTO.GOV  
**Attachments:** Attachment - 1  
Attachment - 2  
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Attachment - 4  
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Attachment - 7  
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**  
**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**APPLICATION SERIAL NO.** 85366056

**MARK:** PRO CRISPS

**CORRESPONDENT ADDRESS:**

JEFFREY JUE  
797 VIA SOMONTE  
PALOS VERDES ESTATES, CA 90274-1629

**\*85366056\***

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** John Miller



**CORRESPONDENT'S REFERENCE/DOCKET**

**NO:**

JCM03

**CORRESPONDENT E-MAIL ADDRESS:**

jjue@catalystipgroup.com

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 10/26/2011**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Refusal to Register-Likelihood of Confusion**

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2869975 and 2875213. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1355, 98 USPQ2d 1253, 1260 (Fed. Cir. 2011); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. *See In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); TMEP §§1207.01 *et seq.*

**Similarity of the Marks**

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation, and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).



**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

/Patty Evanko/  
Trademark Attorney  
Law Office 117  
571-272-9404  
patty.evanko@uspto.gov (questions only)

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/mailling date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.



The applicant's mark is PRO CRISPS. The registrant's marks are PROCRISP and PROCRISP STIX. The marks create the same commercial impression because they are all formed from the identical terms "PRO" and "CRISP." This similarity is more significant than the differences between the marks, namely, the space between the words and the pluralization of "CRISP" in the applicant's mark.

#### Similarity of the Goods

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. *See Safety-Kleen Corp. v. Dresser Indus., Inc.*, 518 F.2d 1399, 1404, 186 USPQ 476, 480 (C.C.P.A. 1975); TMEP §1207.01(a)(i). Rather, it is sufficient to show that because of the conditions surrounding their marketing, or because they are otherwise related in some manner, the goods and/or services would be encountered by the same consumers under circumstances such that offering the goods and/or services under confusingly similar marks would lead to the mistaken belief that they come from, or are in some way associated with, the same source. *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); *see In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984); TMEP §1207.01(a)(i).

The applicant's goods are identified as processed eggs; protein based, nutrient-dense snack foods; and cookies and crackers. The registrant's goods are food bars containing nutraceutical supplements. The goods are closely related because the registrant's identification includes protein-based nutrient-dense snack foods, and also cookies, both of which encompass such goods sold in bar form. Moreover, the applicant's goods are nutrient-dense snack foods and the registrant's goods are food bars that contain nutraceutical supplements. Accordingly, the goods are closely related, such that use of similar marks on the goods is likely to cause confusion.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

Applicant must respond to the requirement(s) set forth below.

#### Disclaimer

Applicant must disclaim the descriptive wording "CRISPS" apart from the mark as shown because it merely describes an ingredient, quality, characteristic, function, feature, purpose or use of applicant's goods and/or services. *See* 15 U.S.C. §§1052(c)(1), 1056(a); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987); TMEP §§1213, 1213.03(a).

As set forth in the attached definition, the term "CRISP" is a noun" which means "something crisp or easily crumbled." Moreover, as set forth in the attached Internet evidence, the term "CRISPS" has a readily understood meaning in relation to cookies, crackers and other snack foods. Therefore, the term is merely descriptive of a feature of the applicant's snack foods, crackers and cookies and does not function as an indicator of source.

Applicant may submit the following standardized format for a disclaimer:

**No claim is made to the exclusive right to use "CRISPS" apart from the mark as shown.**

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).






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## RAINCOAST CRISPS

<b>Word Mark</b>	RAINCOAST CRISPS
<b>Goods and Services</b>	(ABANDONED) IC 030. US 046. G & S: Food products, namely, crackers
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78528241
<b>Filing Date</b>	December 7, 2004
<b>Current Basis</b>	1B;44E
<b>Original Filing Basis</b>	1B;44E
<b>Owner</b>	(APPLICANT) Stowe, Lesley INDIVIDUAL CANADA 1685 West 5th Avenue Vancouver CANADA V6J 1N5
<b>Attorney of Record</b>	David A. Lowe
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CRISPS" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	DEAD
<b>Abandonment Date</b>	July 2, 2009

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**To:** Stowe, Lesley (lowe@blacklaw.com)  
**Subject:** TRADEMARK APPLICATION NO. 78528241 - RAINCOAST CRISPS - STOW-2-1003  
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Attachment - 11

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/528241

**APPLICANT:** Stowe, Lesley

**CORRESPONDENT ADDRESS:**

DAVID A. LOWE  
BLACK LOWE & GRAHAM  
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SEATTLE, WA 98104

**MARK:** RAINCOAST CRISPS

**CORRESPONDENT'S REFERENCE/DOCKET NO:** STOW-2-1003

**CORRESPONDENT EMAIL ADDRESS:**  
lowe@blacklaw.com

**\*78528241\***

**RETURN ADDRESS:**  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.



## OFFICE ACTION

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

Serial Number 78/528241

The assigned Examining Attorney has reviewed the referenced application and determined the following.

### Search Results

The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

### Requirements for an Application Based on Section 44(E): Foreign Registration for the Same Mark

Where an application is based on a foreign registration, applicant must satisfy the following requirements:

- (1) Applicant must submit a true copy, a photocopy, a certification, or a certified copy of a registration of the mark in applicant's country of origin. Applicant's country of origin must either be a party to a convention or treaty relating to trademarks to which the United States is also a party or extend reciprocal registration rights to nationals of the United States by law. *See* TMEP §§1002 *et seq.* and 1004.01 *et seq.*
- (2) An English translation of the foreign registration must also be submitted if the foreign certificate of registration is not written in English. The translator should sign the translation. TMEP §1004.01(b).

Trademark Act Section 44(e), 15 U.S.C. § 1126(e); 37 C.F.R. §2.34(a)(3); TMEP §806.01(d).

## STANDARD CHARACTER CLAIM DRAWING AND FOREIGN REGISTRATION ADVISORY

The applicant has applied for a standard character mark. Please be advised that if the foreign registration does not contain a standard character claim, then the mark shown in the foreign registration is deemed to represent a special form drawing. Therefore, the mark in the application will not match the mark in the foreign registration.

If the applicant believes that the mark in the foreign registration is the legal equivalent of a standard character mark, the applicant should so state for the record. If the mark in the foreign registration is not the legal equivalent of a standard character mark, the applicant must amend the US application to indicate that its mark is a special-form drawing. 37 C.F.R. §2.51; TMEP §§807.14, 1011.01 and 1011.03.

### Disclaimer of Word Required

Applicant must disclaim the descriptive word CRISPS apart from the mark as shown because it merely describes a feature of the goods. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).